

Appl. No. : 09/839,974  
Filed : April 20, 2001

### REMARKS

The following remarks are responsive to the November 22, 2004 Advisory Action after the August 12, 2004 Final Office Action. Claims 1, 14, 23, and 25 have been amended, Claims 2-6, 10-13, 15-20, and 22 remain as previously presented, Claims 7-9 and 21 remain as originally filed, and Claim 24 was previously cancelled without prejudice. Thus, Claims 1-23 and 25 are presented for further consideration. Please enter the amendments and reconsider the claims in view of the following remarks.

#### **Response to Rejection of Claims 1, 2, 5-8, 10, 14, 21-23, and 25 Under 35 U.S.C. § 103(a)**

In the November 22, 2004 Advisory Action, the Examiner maintains the rejection of Claims 1, 2, 5-8, 10, 14, 21-23, and 25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,740,549 issued to Reilly et al. ("Reilly") in view of U.S. Patent No. 6,268,849 issued to Boyer et al. ("Boyer").

#### Claim 1

As described herein, Applicant has amended Claim 1 to recite (emphasis added):

1. A method of selecting user-preferred programs from a plurality of programs, the method comprising:

obtaining a first set of user-defined criteria for identifying preferred program attributes from user input, **the preferred program attributes including attributes which a program must have in order to be of interest to the user;**

obtaining a second set of user-defined criteria for identifying non-preferred program attributes from user input, **the non-preferred program attributes including attributes which a program must not have in order to be of interest to the user;**

accessing a first database that includes program information describing the plurality of programs through program attributes, **the plurality of programs including at least one undesirable program having at least one preferred program attribute in combination with at least one non-preferred program attribute;** and

**sorting through the first database using the first set of user-defined criteria and the second set of user-defined criteria to select programs that have the preferred program attributes and that do not have the non-preferred program attributes, the at least one undesirable program excluded from the selected programs.**

Thus, amended Claim 1 recites identifying preferred program attributes and non-preferred program attributes from user input and sorting through a database to select **only** programs which

Appl. No. : 09/839,974  
Filed : April 20, 2001

(i) have at least one preferred program attribute and (ii) do not have any non-preferred program attributes.

Amended Claim 1 is supported by the present application as originally filed, including, but not limited to, page 7, line 23 – page 8, line 17. Amended Claim 1 recites identifying preferred program attributes and identifying non-preferred program attributes. As explained in Applicant's "Amendment and Response to December 5, 2003 Final Office Action," the non-preferred program attributes are not merely the logical-converse attributes which are mutually exclusive of the preferred program attributes. The preferred program attributes and the non-preferred program attributes as recited by amended Claim 1 are independently and separately defined sets of program attributes, and a program (e.g., the undesirable program) can have **both** a preferred program attribute and a non-preferred program attribute.

Certain embodiments of the method recited by amended Claim 1 are advantageously used in an environment in which a program can have **both** preferred program attributes and non-preferred program attributes. Such a program is referred to as an "undesirable program" by amended Claim 1. The program is undesirable because it has at least one non-preferred program attribute, even though it also has at least one preferred program attribute. The method recited by amended Claim 1 provides the capability of omitting such an undesirable program from a set of selected programs. Thus, the method recited by amended Claim 1 includes programs having the preferred program attributes, and overtly excludes the programs which also have the non-preferred program attributes from the selected programs.

The system disclosed by Boyer does not provide this capability. Boyer merely discloses generating a list of programs from a program guide, each program of the list having a desired attribute (for example, being on a particular channel, as shown by Figure 12 of Boyer). However, Boyer does not disclose that a program can have **both** preferred program attributes and non-preferred program attributes. Furthermore, while the Examiner interprets the selection of one program from the list as being an implicit exclusion of programs having other attributes, Applicant submits that Boyer also does not disclose **excluding programs having a non-preferred program attribute from the selected programs**, as recited by amended Claim 1. Because the non-preferred program attributes are not merely logically-converse and mutually exclusive of the preferred program attributes, selecting one program from the display of Boyer does not amount to excluding programs including a non-preferred program attribute from the

Appl. No. : 09/839,974  
Filed : April 20, 2001

selected programs in accordance with amended Claim 1. Therefore, Boyer does not provide all the limitations of amended Claim 1.

Similarly, the system disclosed by Reilly also does not provide the capability of the method recited by amended Claim 1. At column 9, lines 50-57 (emphasis added), Reilly discloses that within a hierarchical sub-category (e.g., football news), "either an 'include only' or an 'exclude' filter (**but not both**) can be defined ... to select (for the include only) or deselect news items within that subcategory." Reilly does not disclose that a news item can have **both** preferred attributes and non-preferred attributes. Furthermore, Reilly also does not disclose **excluding programs from the selected programs** as recited by amended Claim 1 because Reilly specifies that the include filter and the exclude filter cannot be used concurrently to exclude programs from a list of selected programs. Therefore, Reilly does not provide the limitations of amended Claim 1 missing from Boyer.

Applicant submits that amended Claim 1 includes limitations which are not taught or suggested by the combination of Reilly and Boyer, so amended Claim 1 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of amended Claim 1 and pass amended Claim 1 to allowance.

#### Claims 2 and 5-8

Each of Claims 2 and 5-8 depends from amended Claim 1, so each of Claims 2 and 5-8 includes all the limitations of amended Claim 1, as well as other limitations of particular utility. For the above-stated reasons with regard to amended Claim 1, Applicant submits that Claims 2 and 5-8 are also patentably distinguished over the prior art. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 2 and 5-8 and pass these claims to allowance.

#### Claims 14, 21, and 22

As described herein, Applicant has amended Claim 14 to recite (emphasis added):

14. An audio/video apparatus for selecting programs from a plurality of programs, the plurality of programs comprising **at least one undesirable program having at least one preferred program attribute and having at least one non-preferred program attribute**, the apparatus comprising:

a memory to receive and to store program information describing the plurality of programs through program attributes;

a source of user-defined criteria, wherein the user-defined criteria comprise:

a first set of user-defined criteria which identify preferred program attributes from user input, **the preferred program**

Appl. No. : 09/839,974  
Filed : April 20, 2001

**attributes including attributes which a program must have in order to be of interest to a user; and**

a second set of user-defined criteria which identify non-preferred program attributes from user input, **the non-preferred program attributes including attributes which a program must not have in order to be of interest to the user;**

and

**a preference module configured to sort through the program information to select programs,** the program attributes of each selected program having at least one of the preferred program attributes and not having any of the non-preferred program attributes, **the at least one undesirable program excluded from the selected programs.**

Thus, amended Claim 41 recites an audio/video apparatus which identifies preferred program attributes and non-preferred program attributes from user input and having a preference module which sorts through program information to select **only** programs which (i) have at least one preferred program attribute and (ii) do not have any non-preferred program attributes.

For the reasons discussed above in relation to amended Claim 1, Applicant submits that the combination of Reilly and Boyer does not teach or suggest the apparatus recited by amended Claim 14, so that amended Claim 14 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of amended Claim 14 and pass amended Claim 14 to allowance.

Each of Claims 21 and 22 depends from amended Claim 14, so each of Claims 21 and 22 includes all the limitations of amended Claim 14, as well as other limitations of particular utility. Applicant therefore submits that Claims 21 and 22 are patentably distinguished over the prior art. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 21 and 22 and pass these claims to allowance.

#### Claim 23

As described herein, Applicant has amended Claim 23 to recite (emphasis added):

23. A method of selecting programs from a plurality of programs, the method comprising:

obtaining a first set of user-defined criteria for identifying preferred program attributes from user input, **the preferred program attributes including attributes which a program must have in order to be of interest to a user;**

obtaining a second set of user-defined criteria for identifying non-preferred program attributes from user input, **the non-preferred program**

Appl. No. : 09/839,974  
Filed : April 20, 2001

**attributes including attributes which a program must not have in order to be of interest to the user;**

accessing a first database that includes program information describing the plurality of programs through program attributes, the plurality of programs comprising **at least one desirable program having at least one preferred program attribute and not having any non-preferred program attributes**, the plurality of programs further comprising **at least one undesirable program having at least one preferred program attribute and having at least one non-preferred program attribute;**

comparing the program attributes of the desirable program and the undesirable program to the preferred program attributes;

comparing the program attributes of the desirable program and the undesirable program to the non-preferred program attributes; and

selecting programs from the plurality of programs, each selected program having program attributes which include at least one of the preferred program attributes and which do not include any of the non-preferred program attributes, wherein **the selected programs include the desirable program and exclude the undesirable program.**

For the reasons discussed above in relation to amended Claim 1, Applicant submits that the combination of Reilly and Boyer does not teach or suggest the method recited by amended Claim 23, so that amended Claim 23 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of amended Claim 23 and pass amended Claim 23 to allowance.

#### Claim 25

As described herein, Applicant has amended Claim 25 to recite (emphasis added):

25. A method of selecting programs from a plurality of programs, the method comprising:

obtaining a first set of user-defined criteria from user input which define **at least one required program attribute corresponding to an attribute which a program must have in order that the program be of interest to the user;**

obtaining a second set of user-defined criteria from user input which define **at least one barred program attribute corresponding to an attribute which a program must not have in order that the program be of interest to the user;**

accessing a first database that includes program information regarding the plurality of programs, each program having one or more program attributes which describe the program, the plurality of programs comprising **at least one undesirable program having at least one required program attribute and having at least one barred program attribute;** and

**Appl. No.** : **09/839,974**  
**Filed** : **April 20, 2001**

identifying a selected set of programs of interest to the user, each program of the selected set of programs having the required program attribute and not having the barred program attribute, **the at least one undesirable program excluded from the selected set of programs.**

For the reasons discussed above in relation to amended Claim 1, Applicant submits that the combination of Reilly and Boyer does not teach or suggest the method recited by amended Claim 25, so that amended Claim 25 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of amended Claim 25 and pass amended Claim 25 to allowance.

**Response to Rejection of Claims 3, 4, 9, 11-13, and 15-20 Under 35 U.S.C. § 103(a)**

In the November 22, 2004 Advisory Action, the Examiner maintains the rejection of Claims 3, 4, 9, 11-13, and 15-20 under 35 U.S.C. § 103(a) as being unpatentable over Reilly in view of Boyer and further in view of U.S. Patent No. 6,172,674 issued to Etheredge ("Etheredge").

Claims 3, 4, 9, and 11-13

Applicant submits that the limitations of amended Claim 1 which are not taught or suggested by the combination of Reilly and Boyer are also not taught or suggested by Etheredge. Thus, amended Claim 1 is patentably distinguished over the combination of Reilly, Boyer, and Etheredge.

Each of Claims 3, 4, and 13 depends from amended Claim 1. Claim 9 depends from Claim 8 which depends from amended Claim 1. Each of Claims 11 and 12 depends from Claim 10 which depends from amended Claim 1. Thus, each of Claims 3, 4, 9, and 11-13 includes all the limitations of amended Claim 1, as well as other limitations of particular utility. Applicant therefore submits that Claims 3, 4, 9, and 11-13 are patentably distinguished over the combination of Reilly, Boyer, and Etheredge. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 3, 4, 9, and 11-13 and pass these claims to allowance.

Claims 15-20

Applicant submits that the limitations of amended Claim 14 which are not taught or suggested by the combination of Reilly and Boyer are also not taught or suggested by Etheredge. Thus, amended Claim 14 is patentably distinguished over the combination of Reilly, Boyer, and Etheredge.

Appl. No. : 09/839,974  
Filed : April 20, 2001

Each of Claims 15 and 18 depends from amended Claim 14, each of Claims 16 and 17 depends from Claim 15, and each of Claims 19 and 20 depends from Claim 18. Thus, each of Claims 15-20 includes all the limitations of amended Claim 14, as well as other limitations of particular utility. Applicant therefore submits that Claims 15-20 are patentably distinguished over the combination of Reilly, Boyer, and Etheredge. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 15-20 and pass these claims to allowance.

**Summary**

For the foregoing reasons, Applicant submits that Claims 1-23 and 25 are in condition for allowance, and Applicant respectfully requests allowance of Claims 1-23 and 25.

Respectfully submitted,

Dated: 1/11/05

By: 

Bruce S. Itchkawitz  
Registration No. 47,677  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
Attorney of Record  
2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614  
(949) 760-0404

H:\DOCS\BSI\BSI-7466.DOC  
011105